

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF
TENNESSEE NASHVILLE DIVISION**

MUSIC CITY METALS CO., INC.)
Plaintiff,)
vs.) Civil No. 3:12-cv-01107
JUSTIN LIN, MODERN)
INTERNATIONAL CORP.,)
MODERN CO., LTD., and)
FORMATION CREATION, INC.)
Defendants.)

**DEFENDANT JUSTIN LIN'S ANSWER TO AMENDED COMPLAINT FOR
TRADEMARK INFRINGEMENT, TRADEMARK COUNTERFEITING,
UNFAIR COMPETITION, BREACH OF CONTRACT AND COPYRIGHT
INFRINGEMENT AND DEMAND FOR JURY TRIAL**

Defendant Justin Lin hereby responds to the Amended Complaint for trademark infringement, trademark counterfeiting, unfair competition, breach of contract, and copyright infringement filed on behalf of Music City Metals co., Inc. (“MCM”) as follows:

First Defense

The Amended Complaint fails to state a claim upon which relief may be granted.

Second Defense

The Court lacks personal jurisdiction over Defendant.

Third Defense

In response to the specific numbered allegations in the Amended Complaint,
Defendant states as follows:

I. PARTIES

1. Defendant denies for want of knowledge the allegations contained in paragraph 1 of the Complaint.
2. Defendant denies the allegations contained in paragraph 2 of the Complaint.
3. Upon information and belief,
 - a. Defendant denies the allegations contained in paragraph 3a of the Complaint.
 - b. Defendant denies the allegations contained in paragraph 3b of the Complaint.
 - c. Defendant denies the allegations contained in paragraph 3c of the Complaint.
 - d. Defendant denies for want of knowledge the allegations contained in paragraph 3d of the Complaint.

II. BACKGROUND

4. Defendant denies for want of knowledge the allegations contained in paragraph 4 of the Complaint.
5. Defendant denies for want of knowledge the allegations contained in paragraph 5 of the Complaint.
6. Defendant denies for want of knowledge the allegations contained in paragraph 6 of the Complaint.
7. Defendant denies for want of knowledge the allegations contained in

paragraph 7 of the Complaint.

8. Defendant denies for want of knowledge the allegations contained in paragraph 8 of the Complaint.

9. Defendant denies for want of knowledge the allegations contained in paragraph 9 of the Complaint.

10. Defendant admits selling replacement parts. Defendant denies the remaining allegations contained in paragraph 10 of the Complaint.

11. Defendant admits selling replacement parts. Defendant denies the remaining allegations contained in paragraph 11 of the Compliant.

III. JURISDICTION AND VENUE

12. Defendant denies the allegations contained in paragraph 12 of the Complaint.

IV. PERSONAL JURISDICTION

13. Defendant denies the allegations contained in paragraph 13 of the Complaint.

CAUSES OF ACTION

Count I - Trademark Infringement

14. Defendant realleges and incorporates by reference each of the numbered paragraphs above as if fully set forth herein.

15. Defendant denies the allegations contained in paragraph 15 of the Complaint.

16. Defendant denies for want of knowledge the allegations contained in

paragraph 16 of the Complaint.

17. Defendant denies the allegations contained in paragraph 17 of the Complaint.

18. Defendant denies the allegations contained in paragraph 18 of the Complaint.

19. Defendant denies the allegations contained in paragraph 19 of the Complaint.

Count II - Trademark Counterfeiting

20. Defendant realleges and incorporates by reference each of the numbered paragraphs above as if fully set forth herein.

21. Defendant denies the allegations contained in paragraph 21 of the Complaint.

22. Defendant denies the allegations contained in paragraph 22 of the Complaint.

Count III - Unfair Competition

23. Defendant realleges and incorporates by reference each of the numbered paragraphs above as if fully set forth herein.

24. Defendant denies the allegations contained in paragraph 24 of the Complaint.

25. Defendant denies the allegations contained in paragraph 25 of the Complaint.

26. Defendant denies the allegations contained in paragraph 26 of the

Complaint.

Count IV - Breach of Contract

27. Defendant realleges and incorporates by reference each of the numbered paragraphs above as if fully set forth herein.

28. Defendant denies the allegations contained in paragraph 28 of the Complaint.

29. Defendant denies the allegations contained in paragraph 29 of the Complaint.

Count V-Copyright Infringement

30. Defendant realleges and incorporates by reference each of the numbered paragraphs above as if fully set forth herein.

31. Defendant denies the allegations contained in paragraph 31 of the Complaint.

32. Defendant denies the allegations contained in paragraph 32 of the Complaint.

33. Defendant denies the allegations contained in paragraph 33 of the Complaint.

34. Defense denies all allegations not specifically admitted and denies that any of the relief Plaintiff seeks in the Prayer for Relief is proper or warranted.

Fourth Defense

Plaintiff's First Amended Complaint fails to sufficiently plead claims.

Fifth Defense

Plaintiff's claims are barred, in whole or in part, by the doctrine of laches, estoppel, and/or waiver.

Sixth Defense

Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

Seventh Defense

Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

Eighth Defense

Defendant denies that he has knowingly, willfully, intentionally, or maliciously committed any deceptive trade practices.

Ninth Defense

Defendant denies that he has knowingly, willfully, or intentionally, infringed or impacted any rights of Plaintiff's.

Tenth Defense

If any of Defendant's conduct constitutes infringement, such conduct was innocent within the meaning of the Copyright Act or other applicable laws.

PRAAYER FOR RELIEF

WHEREFORE, Defendant prays for a declaration and judgment against Plaintiff as follows:

- a. That the Court enter a judgment in favor Defendant and against Plaintiff as to all the causes of action alleged herein;
- b. That the Court dismiss Plaintiff's First Amended Complaint with prejudice;
- c. That the Court deny Plaintiff any and all relief that is requested in its First Amended Complaint;
- d. That the Court deny any preliminary or permanent injunctive relief sought by Plaintiff;
- e. That the Court find that Defendant has not infringed and is not infringing directly or indirectly, Plaintiff's trademarks;
- f. That Defendant be awarded his fees and costs and such other relief as the Court deems just and proper.

Respectfully submitted,

s/ Tim Harvey
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Attorney for Defendants Justin Lin, Modern International Corp., and Modern Co., Ltd.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon:

Edward D. Lanquist, Jr.
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Attorneys for Plaintiff

via the Court's Electronic Filing System and upon:

Formation Creations
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via email and via U.S. Mail on February 4, 2014.

s/ Tim Harvey